

PATENT



Docket No. 3553-4075US3

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant(s) : Scott Nedderman et al. Group Art Unit: 2141
Serial No : 09/707,211 Examiner: S. Willett
Filed : November 3, 2000
For : APPARATUS, SYSTEM AND METHOD FOR MAINTAINING
A PERSISTENT DATA STATE ON A COMMUNICATIONS
NETWORK

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313

Sir:

RESPONSE

The Examiner's Restriction Requirement

In response to Examiner's restriction requirement dated March 11, 2004, Applicants submit the instant response. The Examiner has required restriction to one of the following patentably distinct groups of claims under 35 U.S.C. § 121:

Group I	Claims 1-20
Group II	Claims 21-44
Group III	Claims 45-60

Applicants' Election

Applicants elect to pursue prosecution of Group I, claims 1-20.

This election is made with traverse. Applicants respectfully submit that for a restriction requirement to be proper, "[t]here must be a serious burden on the examiner if restriction is not required." M.P.E.P. §803. Applicant respectfully submits that (1) the three groups of restricted claims are properly presented in the same application; (2) undue diverse searching should

not be required; and (3) all claims should be examined together. Applicants respectfully submit that there would be no undue burden on the Examiner to search and examine all groups together. Applicants respectfully request that the Examiner review the three groups of claims in determining the similar search and examination requirements of the three groups. For the foregoing reasons, it is respectfully submitted that the restriction requirement should be withdrawn and an action on the merits of all the claims is respectfully solicited.

Rejections Under 35 USC §102

The Examiner has rejected claims 1, 6, 11 and 16, and subsequently all the remaining claims that depend therefrom under 35 USC §102 due to the Abramson reference, US patent. No. 6,539,494B1. Applicant respectfully traverses. The Examiner claims “Abramson teaches the updated session information based on a current key, column 4, lines 59-61,” but the cited section of the patent, however, does not teach any updating whatsoever. Instead the cited section of Abramson teaches the recalling of the information stored in the backup server. The specification at column 4, lines 56-61 specifically states:

“using the session ID, the new application server determines the IP address of the back up server for the originally assigned application server. The new application server then connects to the back up server and recovers the user’s section data.”

The recovery of such backup data is not equivalent to the claimed “updating data” element and therefore the element is missing from the Abramson reference.

Also, the Examiner claims that “Abramson teaches validating the user provide information from the segment, column 4, lines 61-67 wherein validating is verifying that an old section matches the new section along with validating other sections parameters.” However, the Abramson reference does no such thing. Instead Abramson specifically talks about the recovery of a backup section. At the cited column 4, lines 61-67, the specification notes:

“that section data is *reconstituted* into a newly created section, with the new section ID, so that subsequent requests will be routed directly to the newly assigned application server. Once the new section has been created the application server can process the request in the same manner as the request would be processed if the backup server had not been used.” (emphasis added).

This quote clearly demonstrates that a backup is being reconstituted—no update is possible when

recovering data from a backup. Furthermore, this reconstitution of old data into a current section clearly does not evince any validation or verification of information whatsoever; the cited specification at least as far as noted by the Examiner is silent on verification as the above quote confirms. As such the claimed validating element is also missing from the Abramson reference.

As the Abramson reference does not teach each and every element of the claimed invention as noted above, therefore applicant believes that claims 1, 6, 11, 16 are patentable over the reference. As such, applicant believes that the noted claims are patentable over the cited reference and that they be allowed. As the remaining claims depend from the above noted claims, the remaining claims should be allowed for the similar reasons.

AUTHORIZATION

In the event that a telephone conference would facilitate examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided.

Applicants submit that no fee and no petition for an extension of time are required for filing this Response. However, the Commissioner is hereby authorized to charge any fees which may be required to Deposit Account 13-4500, order no. 3553-4073US3. Any extension of time which may be required is hereby petitioned. A duplicate of this sheet is attached.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: September 13, 2004

By:



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